



**UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

EXAMINER

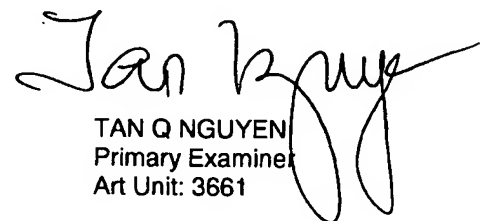
ART UNIT	PAPER
----------	-------

20070831

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents


TAN Q NGUYEN
Primary Examiner
Art Unit: 3661



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/813,441

03/31/2004

Timothy H. Robertson

032915-0153

3780

22428 7590 09/10/2007

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

NGUYEN, TAN QUANG

ART UNIT

PAPER NUMBER

3661

MAIL DATE

DELIVERY MODE

09/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/813,441	ROBERTSON, TIMOTHY H.	
	Examiner	Art Unit	
	TAN Q. NGUYEN	3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-27 and 31-33 is/are allowed.
- 6) ☒ Claim(s) 1-21, 27-30 AND 34-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAIL ACTION

Notice to Applicant(s)

1. This office action is response to the Amendment and Response to Restriction Requirement filed on July 23, 2007. As per requested, claims 22, 23, 25, 31, 32, 34 and 36 have been amended to includes all the limitations recited in claims of group I. Thus, the previous restriction was no longer applied. Claims 1-36 are pending.

Claim Rejections - 35 USC § 101

2. Claims 34-36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 34-36 drawn to functional descriptive material NOT claimed as residing on a computer readable medium. MPEP 2106.IV.B.1(a) (Functional Descriptive Material) states:

"Data structures not claimed as embodied in a computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer."

"Such claimed data structures do not define any structural or functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized."

3. Claims 34-36, while defining a program product or a machine-readable program code, they not define a "computer-readable medium" and is thus non-statutory for that reasons. A machine-readable program code can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on "computer-readable medium" in order to make the claim statutory. For example, "A program product stored

on a computer readable medium", "comprising a computer-readable medium for storing machine-readable program code for causing ..."

"In contrast, a claimed computer-readable medium encoded with the data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory." - MPEP 2106.IV.B.1(a)

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-6, 8, 9-21 and 28-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Massie et al. (6,727,806).

6. As per claims 1, 6, 9, 13, 15, 28 and 29 Massie et al. disclose the invention as claimed which includes a reconfigurable cargo door/tailgate position indicator for receiving input from a door/gate monitoring mode input device 18, receiving input from a door/gate position input device 12, and output a signal to a door/gate position indicator

to control the door/gate position indicator based on the analysis of the received inputs (see at least figures 1, 4, and column 4, lines 21-33).

7. As per claims 2-5, 8, 14, 16-21 and 30, the limitations of these claims have been taught in at least figure 1-4 and the related text of the Massie et al. reference.

8. Claims 7 and 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 22-27 and 31-33 are allowable. After carefully reviewing the application in light of the prior art of record, the amended claims and additional search of all the possible areas relevant to the present application, a set of related prior art references has been found, but those prior art references are not deemed strong to make these claims application unpatentable.

Conclusion

10. Claims 1-21, 28-230 and 34-36 are rejected. Claims 22-27 and 31-33 are allowable over the prior art of record.

11. The following references are cited as being of general interest: Lester et al. (5,289,534), Kowall et al. (5,563,483), Schwimmer et al. (5,708,409), Krenkel et al. (5,713,621), Lennox et al. (6,137,419), Zich (7,088,045), and Hensel (7,128,019).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Tan Nguyen, whose telephone number is (571) 272-6966. The examiner can normally be reached on Monday-Thursday from 5:30 AM-4:00 PM

Art Unit: 3661

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black, can be reached on (571) 272-6956.

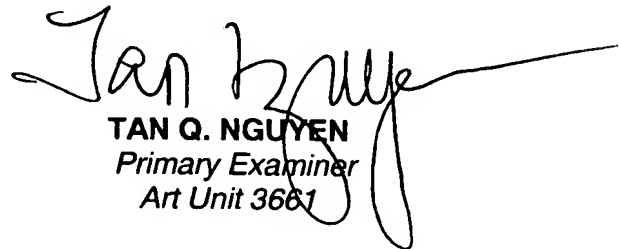
Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to the Central Fax: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/tqn
September 3, 2007


TAN Q. NGUYEN
Primary Examiner
Art Unit 3661